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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* CHIRAG D. DALAL and RONALD S. KARR

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Appeal 2009-005540  
Application 10/790,656  
Technology Center 2100

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Decided: June 16, 2010

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*Before*, JAMES D. THOMAS, LANCE LEONARD BARRY, and THU A.  
DANG, *Administrative Patent Judges*.

DANG, *Administrative Patent Judge*.

DECISION ON APPEAL

## I. STATEMENT OF CASE

Appellants appeal the Examiner's final rejection of claims 1-21 under 35 U.S.C. § 134(a). We have jurisdiction under 35 U.S.C. § 6(b).

We affirm-in-part.

## A. INVENTION

According to Appellants, the invention relates to a computer system that uses "a single allocator to coordinate volume transformations across virtualization layers" (Spec. 20).

## B. ILLUSTRATIVE CLAIMS

Claims 1 and 8 are exemplary and reproduced below:

1. A method comprising:

a computer system creating a first storage object, wherein the first storage object is created to have a property;

the computer system creating a second storage object, wherein the second storage object comprises a component storage object;

the computer system choosing the first storage object to be the component storage object due to the property of the first storage object;

the computer system modifying the first storage object, wherein the modified first storage object maintains the property.

8. A method comprising:

a computer system creating one or more first storage objects, wherein the one or more first storage objects are created to have individual or collective properties;

the computer system creating a second storage object out of the one or more first storage objects, wherein the second storage object depends on the individual or collective properties of the one or more first storage objects;

the computer system receiving information that at least one of the individual or collective properties of the one or more first storage objects has changed and that the second storage object can no longer depend on the individual or collective properties of the one or more first storage objects;

the computer system responding after receiving the information.

### C. REJECTIONS

The prior art relied upon by the Examiner in rejecting the claims on appeal is:

Young	US 5,946,696	Aug. 31, 1999
Bulusu	US 6,065,011	May 16, 2000
Furuhashi	US 2003/0229698 A1	Dec. 11, 2003
Russell	US 6,826,600 B1	Nov. 30, 2004

Claims 8-11 stand rejected under 35 U.S.C. §102(e) as being anticipated by Young.

Claims 1-5, 12-16, and 19-21 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Russell and Bulusu.

Claims 6, 7, 17, and 18 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Russell, Bulusu, and Furuhashi.

## II. ISSUES

1) Has the Examiner erred in concluding that Young teaches a “second storage object” that “depends on the individual or collective properties of the one or more first storage objects” and “can no longer depend on the individual or collective properties of the one or more first storage objects” (claim 8; emphasis added), as Appellants contend? The issue turns on whether Young teaches a “second storage object” that depends and then, subsequently, no longer depends on the (i.e., said) same property of a “first storage object.”

2) Has the Examiner erred in concluding that the combined teachings of Russell and Bulusu suggest “wherein the second storage object comprises a component storage object; the computer system choosing the first storage object to be the component storage object due to the property of the first storage object” (claim 1; emphasis added), as Appellants contend?

### III. FINDINGS OF FACT

The following Findings of Fact (FF) are shown by a preponderance of the evidence.

#### *Young*

1. Young's system stores object properties in property lists, such that object modifications can be isolated by comparing one property list to another (col. 1, ll. 46-56).
2. Young describes the modification of an object 100, where: (a) property list 120 reflects the properties of object 100 before modification ("solid" border style, "4 pt" border size, "Times New Roman" font, "20 pt" text size, "left" justification, and "non-italics" text style); (b) property list 122 reflects the properties of object 100 after modification ("dashed" border style, "4 pt" border size, "Times New Roman" font, "20 pt" text size, "centered" justification, and "italics" text style); and (c) a "differences" list 124 reflects only differences between the property lists 120, 122 ("dashed" border style, "centered" justification, and "italics" text style), i.e., reflects only the modified properties (col. 3, ll. 14-45; Fig. 1E).
3. Young's system can synchronize the properties of two objects by: (a) polling a first object to obtain its included property list at different times; (b) comparing the two most recent property lists; and (c) if the first object was modified, isolating the modified properties and applying them to a second object (col. 4, ll. 64-66; col. 11, l. 66 – col. 12, l. 23; Fig. 1E).

*Russell*

4. Russell's system allows networked clients to share their local objects and, more particularly, allows each client to ensure that a local object's definitions are uniquely identifiable across all clients (Abstract).
5. A client sends an object's local object specification 150 to a server which: (a) converts the object's local object definitions 151 into global object definitions 161 of a global object specification 160; (b) identifies each global object definition 161 with a global object identification 162 that is unique across all clients; and (c) returns the global object specification 160, containing the uniquely identified global object definitions 151, to the client (Abstract; col. 14, ll. 4-53; Fig. 3).
6. The client replaces the local object specification 150 with the global object specification 160, such that the client can use and share the global object definitions 161 that are uniquely identified across the network (Abstract; col. 13, ll. 32-43).
7. "[E]ach global object definition 161 that the server 132 creates is essentially a duplicate of a corresponding local object definition 151 except that the server 132 replaces the local object identification 152 with a global object identification 162" (col. 14, ll. 29-53).

#### IV. PRINCIPLES OF LAW

Claims must be given their broadest reasonable interpretation consistent with the Specification. *See In re Morris*, 127 F.3d 1048, 1054 (Fed. Cir. 1997).

In rejecting claims under 35 U.S.C. § 102, “[a] single prior art reference that discloses, either expressly or inherently, each limitation of a claim invalidates that claim by anticipation.” *Perricone v. Medicis Pharm. Corp.*, 432 F.3d 1368, 1375 (Fed. Cir. 2005) (citation omitted).

## V. ANALYSIS

### 35 U.S.C. 102

#### *Claims 8-11*

As to independent claim 8, Appellants argue that the Examiner illogically relies on the modification of Young’s original object 100 (which results in the modified object 100) as “both the condition that a given storage object depends as well as the condition that the very same storage object no longer depends upon a given property” (App. Br. 7).

The Examiner responds that Young’s modified object 100 “as shown in modified property list (122, figure 1E) depends on the individual or collective properties (i.e., [the unmodified properties on] border size, font, text size) of the [original object 100] as shown in unmodified property list (120, figure 1E)” and “can no longer depends [sic] on the individual or collective properties (i.e., the modified properties on border, text justification and style) of the [original object 100]” (Ans. 11-12; emphasis added). That is, the Examiner finds that the modified object 100 (depicted by property list 122) depends on the unmodified properties of the original object 100 (depicted by property list 120); and that the modified object 100 can no longer depend on the modified properties of the original object 100.

Thus, an issue we address on appeal is whether the Examiner erred in finding that Young teaches a “second storage object” that “depends on the individual or collective properties of the one or more first storage objects”

and “can no longer depend on the individual or collective properties of the one or more first storage objects” (claim 8; emphasis added), as Appellants contend. For reasons provided below, the issue turns on whether Young teaches a “second storage object” that depends and then, subsequently, no longer depends on “the” (i.e., said) same property of a “first storage object.”

We begin our analysis by giving the claims their broadest reasonable interpretation consistent with the Specification. *See Morris*, 127 F.3d at 1054.

We find that claim 8 requires that the second storage object “depends on” and “can no longer depend on” “the”, i.e., same, properties. That is, we interpret “the individual or collective properties” (claim 8; emphasis added) to mean “said” individual or collective properties. In particular, in view of the rule of antecedent basis, we interpret the limitations “depends on the individual or collective properties” and “can no longer depend on the individual or collective properties” as requiring that the “second storage object” depends on and no longer depends on the same “individual or collective properties of the one or more first storage objects.” Thus, there must be at least one property of a “first storage object” that the “second storage object” depends on and also no longer depends on.

An object cannot be interpreted to be depending on a property but interpreted to be also no longer depending on the same property at the same time. We therefore interpret claim 8 to require that the “second storage object” depends on at least one property of the “first storage object” and then no longer depends on the at least one property at another period of time. We note that, reviewing claim 8 as a whole, claim 8 recites “receiving information” that “at least one of the individual or collective properties of

the one or more first storage objects has changed” (emphasis added). We therefore also interpret claim 8 as requiring the “second storage object” to depend on and then, after “receiving information” that a property of a “first storage object” has changed, no longer depend on that same property of a “first storage object.”

Young’s system stores the properties of an object 100 in a property list, such that object modifications can be isolated by comparing property lists (FF 1). The system generates two property lists 120, 122 of the object 100, which respectively represent the object 100 just before and after modification, by periodically “polling” the object 100 to obtain its two most recent property lists 120, 122 (FF 3). The respective property lists 120, 122 of Young’s object 100, if generated by polling the object 100 before and after modification, can be compared to generate a “differences” list 124 that isolates the modified properties (FF 2).

We agree with the Examiner’s finding that Young’s modified object 100 depends on the unmodified properties of the original object 100, i.e., with respect to having the unmodified properties in common. However, in that respect, the modified object 100 will always depend on the unmodified properties of the original object 100. That is, the modified object 100 and original object 100 will always have the unmodified properties in common because the properties of the modified object 100 and original object 100 do not change. More particularly, the respective property lists 120, 122 of the modified object 100 and original object 100 do not change, but are rather set as the properties of the same object 100 at respective moments of time.

Thus, since the properties of Young’s modified object 100 and original object 100 do not change, we agree with Appellants that the

passages cited by the Examiner do not teach that the modified object 100 and original object 100 respectively comprise the “second storage object” and a “first storage object” of claim 8, where the “second storage object” depends on and then, subsequently, no longer depends on the same property of a “first storage object.”

Accordingly, for the above reasons, we reverse the rejection of claim 8 and its dependent claims 9-11 under 35 U.S.C. § 102(e) as being anticipated by Young.

*35 U.S.C. 103(a)*

*Claims 1-7 and 12-21*

As to independent claim 1, Appellants argue that the recited “first storage object” and “second storage object” cannot read on Russell’s local object specification 150 and global object specification 160, respectively, because the global object specification 160 does not comprise the local identification 152 of the local object specification 150 (App. Br. 8). More particularly, Appellants argue that the rejection incorrectly asserts the global object specification 160 as including the local identification 152 of the local object specification 150 (Reply Br. 11).

Contrary to Appellants’ argument, the Examiner does not find that Russell’s global object specification 160 includes the local identification 152 of the local object specification 150. Rather, the Examiner finds that the global object specification 160 includes “the local object definition 151 [of the local object specification 150] as identified by [the local object identification] 152” (Ans. 14). The Examiner also finds that the local object identification 152 teaches the recited “property” of the “first storage object” (Ans. 6).

Thus, an issue we address on appeal is whether the Examiner erred in finding that Russell teaches “wherein the second storage object comprises a component storage object; the computer system choosing the first storage object to be the component storage object due to the property of the first storage object” (claim 1), as Appellants contend.

The limitation at issue recites that the “second storage object comprises a component storage object” and that the “first storage object” is chosen to be “the component storage object due to the property of the first storage object.” Thus, we interpret the limitation at issue as requiring that the “second storage object” comprises the “first storage object ... due to the property of the first storage object.”

Russell’s system allows networked clients to share their local objects (FF 4). More particularly, the system ensures that a client’s definitions for a local object have unique identifications, i.e., are not being used for the definitions of other objects by other clients (FF 5). The system duplicates the properties 153 of the definitions 151 within the local object specification 150 and uses them as properties 163 of the definitions 161 within the global object specification 160 (FF 5 and 7); provides each definition 161 of the global object specification 160 a unique identification 162 (FF 5); and replaces the client’s local object specification 150 with the global object specification 160 to ensure the client has object definitions with unique identifications (FF 6).

We find that the global object specification 160 receives the properties 153 of the local object specification 150 in order to address a deficiency of the local object identification 152, i.e., to address that the local object identification 152 may not be unique. More particularly, the global object

specification 160 incorporates the properties 153 of the local object specification 150, and does so to create a unique global object identification 162 for those properties 153 because the local object identification 152 for those properties 153 is not unique.

Thus, Russell teaches the global object specification 160 as comprising the properties 153 of the local object specification 150 due to the local object identification 152 for those properties 153 of the local object identification 152 not being unique. We therefore conclude that Russell teaches a “second storage object” (global object specification 160) comprising a “first storage object” (properties 153 of the local object identification 152) “due to the property of the first storage object” (due to the local object identification 152 of the properties 153 being not unique).

We note that, in teaching the limitation at issue, the global object specification 160 need not comprise the entire local object specification 150 (i.e., the properties 153 and local object identification 152) because claim 1 does not require the “second storage object” to comprise the entire “component storage object” (which is chosen as the “first storage object”). Appellants acknowledge as much in stating that they “are not arguing that Russell would need to teach that global object specification 160 comprises all the properties of local object specification 150 in order to teach the elements of the claims” (Reply Br. 11; emphasis added).

Accordingly, for the above reasons, we affirm the rejection of claim 1 and its dependent claims 2-5 under 35 U.S.C. §103(a) as being unpatentable over Russell in view of Bulusu. As Appellants do not provide separate arguments for independent claims 12, 19, 20, and 21 (App. Br. 9), we also affirm the rejection of claims 12, 19, 20, and 21, and claims 13-16

depending from claim 12, under 35 U.S.C. §103(a) as being unpatentable over Russell in view of Bulusu.

Appellants argue that claims 6, 7, 17, and 18 are patentable in view of their dependencies on claims 1 and 12 (*id.*). Accordingly, as claims 6, 7, 17, and 18 fall with claims 1 and 12, we affirm the rejection of claims 6, 7, 17, and 18 under 35 U.S.C. §103(a) as being unpatentable over Russell and Bulusu in view of Furuhashi.

## VI. CONCLUSIONS

Appellants have shown the Examiner erred in concluding that claims 8-11 are anticipated by Young.

Appellants have not shown the Examiner erred in concluding that claims 1-5, 12-16, and 19-21 are unpatentable over Russell in view of Bulusu.

Appellants have not shown the Examiner erred in concluding that claims 6, 7, 17, and 18 are unpatentable over Russell and Bulusu in view of Furuhashi.

## VII. DECISION

The Examiner's decision rejecting claims 8-11 under 35 U.S.C. § 102(e) is reversed.

The Examiner's decision rejecting claims 1-7 and 12-21 under 35 U.S.C. § 103(a) is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

Appeal 2009-005540  
Application 10/790,656

AFFIRMED-IN-PART

peb

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